

FILED  
U.S. DISTRICT COURT

2020 MAR -9 P 2:28

DISTRICT OF UTAH

US 10th DISTRICT COURT FOR THE DISTRICT OF UTAH

USA

v.

MILLARD J. LONKEY  
ACCUSED/DEFENDANT

7018 1830 0001 1211 3134  
DEPUTY CLERK

CASE NO. DUTX2:15CR00368-001 DN

MOTION FOR RELIEF UNDER THE FIRST STEP ACT

[EXPEDITED TREATMENT REQUESTED]

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Certification: This Motion is Timely Filed

The Accused / Defendant, MILLARD J. LONKEY, currently representing himself PRO-PER, submits the following MOTION  
FOR REDUCTION OF SENTENCE/ RELEASE under the December 21, 2018 FIRST STEP ACT and the amended SECOND  
CHANCE

ACT and Federal Prisoner Re-entry initiative. This motion is in no way an admission of guilt, liability or culpability.

DATED: MARCH 2, 2020

Millard J. Lonkey  
Millard J. Lonkey

POINTS AND AUTHORITIES

I, MILLARD J. LONKEY, hereby requests a REDUCTION/RELEASE from prison under the authority of the FIRST STEP ACT/REVISED SECOND CHANCE ACT.

I am acting PRO-PER and have no one to represent me on the outside. Since arriving at Big Spring Correctional Institution during the month of December, 2015, I have received an injury in my lower back requiring fusion surgery and the BOP has not treated my injury except for pain medication, thus treating the symptom and not curing the injury and it has been well over four years without corrective surgery leaving me in excruciating pain. In June of 2019, I have developed Diplopia in my left eye(double vision) which causes me to lose my balance and stagger. The Ophthalmologist stated that I need delicate corrective surgery. The BOP has done nothing to correct this problem except to order special eye glasses which may or may not solve the symptom, but again not cure the problem. The glasses were ordered in October of 2019 and have not been received at this time.

On January 22, 2020 I submitted a letter by certified mail to Warden R. Marques requesting Compassionate Release/Reduction of Sentence as per the FIRST STEP ACT/SECOND CHANCE ACT, TITLE VI, SECTION 602 (b) (1) and Section 102, [Exhibit A]. Warden Marques was to respond after 14 days under the FIRST STEP ACT [THE ACT] and he has not done so in the period of time required. THE ACT states that now I am able to submit my request directly to the Sentencing Court without having to go through the maze of BOP Bureaucracy.

I have been programming continuously since arrival at Big Spring Federal Correction Institution, with the exception of when my left eye lost normal vision, and when I am in unrelenting lower back pain.

I do qualify for REDUCTION OF SENTENCE/COMPASSIONATE RELEASE under 18 USC 3632, section (c) (4).

I now petition this Honorable Court for much needed relief. I now also pray for a Reduction of Sentence/ Compassionate Release in order to obtain urgently needed proper medical care and surgery.

APPLICABLE LAW.

1. Under the NEW ACT, it now allows a Federal Prisoner seeking early Release/ Reduation of Sentence to petition the SENTENCING COURT for relief 30 days after the initial request to the Warden of the facility. THE ACT and section 603 (b) (1), PUBLIC LAW 115-391, 132 stat. 1594 ( December 21, 2018) codified at 18 USC 3582 (C), now allows COMPASSIONATE RELEASE for "ELDERLY" offenders. The ACT defines "Elderly" as 60 years of age or older under section 603 (a) (5) (A) (b) amended from the previous classification of (65) years of age. As of July 22, 2019, I turned 66 years of age, so I qualify.

2. After calculating the math on my current sentence under the new sentencing provisions and guidelines of the ACT, which the BOP is ignoring and refusing to do for tens of thousands of prisoners now being illegally and unlawfully incarcerated, The ACT has created an 'EXTRAORDINARY AND COMPELLING CIRCUMSTANCE' for 'LOW RISK, NO RISK' inmates at camps, low and minimum security facilities as per the "SYSTEM". Priority must be given to those inmates during this phase in period where the A.G. may use the existing RISK AND NEEDS ASSESSMENT TOOLS. EXAMPLE: In my case, I am 66 years old serving a 168 month sentence. As of March 2020 of this year my FSA sentence calculates as follows:.

- 168 month sentence
- 25.2 months @ 54 days good time under the FSA (Barber v. Thomas, SCOTUS-BOP Guide)  
leaves 142.8 months
- 57.12 months for 66% for over 60 years of age  
leaves 85.68 months
- 18 months for 15 days (10 days per month for 30 days programming+5 bonus days per month for 2 good assessments from Unit Team.[EXHIBIT B]  
leaves 67.68 months
- 18 months halfway house/home confinement/supervised release (USA v. Turnquist, SCOTUS)  
leaves 49.68 months to serve= 4 yrs 11 months 8 days.

Having already served 4 years, 6 months leaves 5 months 8 days to serve. However, under the revolutionary FIRST STEP ACT, all of the above are moot points.

Now, the SENTENCING COURT has the option to allow me to serve 85% of my sentence under SUPERVISED RELEASE

AS A LOW RISK, NON-VIOLENT, NON-DRUG OFFENDER. Under section 602 of the ACT, HOME CONFINEMENT FOR LOW RISK

NO RISK OFFENDERS (TITLE 18 USC 3624 (c)(2) is amended by adding the following: " The BOP SHALL, to the extent

practical, place prisoners with low risk levels and lower needs on HOME CONFINEMENT for the MAXIMUM AMOUNT OF TIME

permitted under the paragraph').

#### ARGUMENT

I, MILLARD J. LONKEY, submitted my request for SENTENCE REDUCTION/ COMPASSIONATE RELEASE to Warden R. Marques

on January 22, 2020 via USPS certified mail. Warden Marques did not respond within the 14 day time period according to FSA law by February 5, 2020.

I am 66 years of age, born July 22, 1953, putting me in the "ELDERLY" age group per the FSA.

I have submitted my medical records to show proof of my various severe medical condition. {EXHIBIT C}.

#### CONCLUSION

I am a retired/Disabled Vietnam Era Veteran and Persian Gulf (Decorated) Veteran having served my country Honorably for a period of 26 years in the US Air Force and US Navy.

I am married and own a residence and vehicle on the Philippine Island of Mindanao where my spouse resides. My release plans

include volunteer work for the local VFW Post # 2485 ( Angeles City) and volunteer work at the local animal shelter. I have a steady income of military retirement pay and New York State pension, plus Social Security upon release.

I have severe medical needs that are not being addressed by the BOP. It is my intention to obtain medical care at the Veterans Affairs Medical Hospital to resolve my lower back and left eye issues.

I believe that I have shown that I qualify for relief under the FIRST STEP ACT/ REVISED SECOND CHANCE ACT and should be awarded time credits for release.

DATED March 2, 2020

MJ Lonkey  
MILLARD J. LONKEY